

# EXHIBIT E

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9 NATIONWIDE MUTUAL INSURANCE COMPANY

FILED

2007 NOV -1 P 2:38

CLERK OF THE SUPERIOR COURT  
COUNTY OF CONTRA COSTA, CALIF.

BY: C. Green, Deputy Clerk

10  
11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12  
13 IN AND FOR THE COUNTY OF CONTRA COSTA

14 SEAN MICHAEL CARTER,  
15  
16 Plaintiff,

17 vs.

18 K&K INSURANCE GROUP, INC.,  
19 d/b/a/SPECIALTY BENEFITS  
20 ADMINISTRATOR, INC.; NATIONWIDE  
21 LIFE INSURANCE COMPANY;  
22 NATIONWIDE MUTUAL INSURANCE  
23 COMPANY; AON CORPORATION, and  
24 DOES 1-100,

25 Defendants.

CASE No. C 07-01357

ANSWER TO PLAINTIFF'S  
COMPLAINT BY DEFENDANT  
NATIONWIDE MUTUAL INSURANCE  
COMPANY

BY FAX

26 Defendant NATIONWIDE MUTUAL INSURANCE COMPANY ("defendant") answers  
27 the complaint of Plaintiff SEAN MICHAEL CARTER ("plaintiff") as follows:

28  
GENERAL DENIAL

Pursuant to the provisions of California Code of Civil Procedure section 431.30(d),  
defendant denies each and every allegation of the complaint, generally and specifically, and in  
particular, denies that Plaintiff was damaged in any sum, or at all.

AFFIRMATIVE DEFENSES

As separate affirmative defenses to the Complaint, defendant alleges:

**FIRST AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred in whole or in part by the terms, provisions and conditions of the insurance policy issued by defendant under which plaintiff seeks relief.

**SECOND AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred because defendant has paid all contractual benefits owed to plaintiff under the insurance policy issued by defendant under which plaintiff seeks relief.

**THIRD AFFIRMATIVE DEFENSE**

Plaintiff's claims for punitive damages against defendant are unconstitutional.

**PRAYER**

WHEREFORE, Defendant requests that the court enter judgment in this action as follows:

1. That plaintiff takes nothing by his complaint;
2. For a judicial determination that defendant had no obligation under the express or implied terms of the relevant insurance policy to provide any additional insurance benefits to plaintiff beyond those paid to date;
3. That judgment be rendered in favor of defendant;
4. That defendant be awarded costs of suit incurred herein, including reasonable attorneys' fees; and
5. For such other and further relief as the Court deems just and proper.

Dated: November 1, 2007

LONG & LEVIT LLP

By



KAREN L. UNO  
DAVID P. BOROVSKY  
Attorneys for Defendant  
NATIONWIDE MUTUAL  
INSURANCE COMPANY

DOCS\S5240-337\540969.V2

**PROOF OF SERVICE**

I am employed in the City and County of San Francisco, California. I am over the age of 18 years and not a party to the within action. My business address is Long & Levit LLP, 465 California Street, Suite 500, San Francisco, CA 94104.

On November 1, 2007, I served the documents named below on the following attorney(s) of record and/or interested parties in the case of *Sean Michael Carter v. K&K Insurance Group, Inc. et al*, Contra Costa County Superior Court, Case No. C 07-01357:

**ANSWER TO PLAINTIFF'S COMPLAINT BY DEFENDANT NATIONWIDE  
MUTUAL INSURANCE COMPANY**

SERVED UPON: ATTORNEY(S) NAMES – OR – “SEE ATTACHED SERVICE LIST”

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☒ (BY MAIL) I am readily familiar with Long & Levit LLP's practice for collection and processing of documents for mailing with the United States Postal Service. I caused such document(s) to be placed in a sealed envelope, addressed to the person(s) on whom it is to be delivered pursuant to the attached service list, with postage thereon fully prepaid, to be deposited with the United States mail at San Francisco, California, that same day in the ordinary course of business. [CCP § 1013]

☒ (BY FACSIMILE) I caused the document(s) described herein to be transmitted from facsimile number (415) 397-6392 to the facsimile number(s) for each party indicated above

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 1, 2007, at San Francisco, California.

  
PATRICIA HAYMOND

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**AMENDED PROOF OF SERVICE**

I am employed in the City and County of San Francisco, California. I am over the age of 18 years and not a party to the within action. My business address is Long & Levit LLP, 465 California Street, Suite 500, San Francisco, CA 94104.

On November 1, 2007, I served the documents named below on the following attorney(s) of record and/or interested parties in the case of *Sean Michael Carter v. K&K Insurance Group, Inc. et al*, Contra Costa County Superior Court, Case No. C 07-01357:

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MUTUAL INSURANCE COMPANY**

SERVED UPON: ATTORNEY(S) NAMES – OR – “SEE ATTACHED SERVICE LIST”

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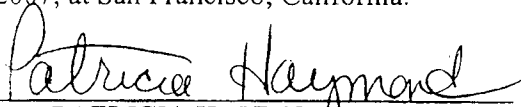
*Attorneys for Defendant K&K Insurance Group,  
Inc., dba Specialty Benefits Administrator, Inc.*

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 1, 2007, at San Francisco, California.

  
PATRICIA HAYMOND

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